

SEP 10 3 53 PM '99

BEFORE THE
FEDERAL ELECTION COMMISSION
OF THE
UNITED STATES OF AMERICA

In the Matter of:

Hillary Rodham Clinton;

Hillary Rodham Clinton for U.S. Senate
Exploratory Committee, Inc.; and

Terence McAuliffe

Respondents

MUR 4924

COMPLAINT

CONSERVATIVE CAMPAIGN FUND, a political action committee incorporated in Virginia and having its principal place of business at 1309 Vincent Place, Suite 2000, McLean, Virginia 22101, files this complaint with the Federal Election Commission in accordance with the provisions of 2 U.S.C. §437g(a)(1) in the belief that Respondents violated provisions of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§431, *et seq.*

The primary purpose of the Conservative Campaign Fund is to elect candidates to office who support low taxes, a strong defense and political reform.

RESPONDENTS

HILLARY RODHAM CLINTON, 1600 Pennsylvania Avenue, NW, Washington, D.C. 20500, (hereinafter "Clinton") has organized the Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.

HILLARY RODHAM CLINTON FOR U.S. SENATE EXPLORATORY COMMITTEE, INC. 450 Seventh Avenue, Suite 804, New York, N.Y. 10123-0073, (hereinafter "the Committee"), is a political committee organized by Clinton to facilitate her possible candidacy for the U.S. Senate.

TERENCE McAULIFFE, 7527 Old Dominion Road, McLean, Virginia 22102, (hereinafter "McAuliffe"), is a major fund raiser for the Committee and has agreed to provide \$1.3 million in cash as collateral for the mortgage for the house being purchased by Clinton and her husband in Chappaqua, New York.

Facts

Hillary Rodham Clinton has expressed interest in running for the U.S. Senate from New York in next year's election. To facilitate the exploratory phase of the campaign, she organized the Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc., and has commenced raising funds to finance the Committee's activities.

Terence McAuliffe, a businessman and political fund raiser, has been reported as a major fund raiser for the efforts of Clinton and the Committee. Numerous media accounts have described McAuliffe's assistance to both Clinton and her husband through fund raising to pay the couple's legal bills:

"As cochairman of President Clinton's legal defense fund formed this year, McAuliffe already has raised almost half of the \$10 million the president needs to pay off mounting legal bills, settlements and fines."

John Machacek, "Terence McAuliffe: Friend, savior to Clintons," Gannett News Service, Sept. 6, 1999.

Similarly, McAuliffe has been repeatedly cited as a major fund raiser for the Clinton campaign for the U.S. Senate:

"Democratic fund-raiser Terry McAuliffe is back in the spotlight, raising \$150,000 last night in his home town of Syracuse for Hillary Clinton's likely New York Senate campaign."

Beth Fouhy, CNN Inside Politics, Sept. 3, 1999.

"Recently, McAuliffe began working on a plan to raise \$25 million for Mrs. Clinton's all but announced candidacy for the U.S. Senate seat being vacated by retiring New York Senator Daniel Patrick Moynihan."

John Machacek, "Terence McAuliffe: Friend, savior to Clintons," Gannett News Service, Sept. 6, 1999.

When the Clintons began searching for a house to purchase in New York to establish New York residency for Clinton in order to qualify to run for the Senate, there was public speculation as to how the Clintons could personally afford to purchase a large home. Among the considerations listed were the limited assets of the Clintons as well as the millions of dollars in legal bills the couple was personally obligated to pay.

On September 6, 1999, the White House Press Secretary released a statement announcing that the President and Mrs. Clinton were purchasing a large five-bedroom home in Chappaqua, New York. The purchase price of the home was \$1,700,000 and they had secured a loan commitment for \$1,350,000 from Bankers Trust Company. The press secretary further stated, "The loan will be secured by a mortgage on the property, as well as by a guaranty from Terry McAuliffe."

Published accounts of the transaction established that McAuliffe was providing the \$1,350,000 in cash as a deposit to the bank to establish the necessary collateral for the mortgage.

Following the disclosure of McAuliffe's cash contribution to the transaction, numerous editorials questioned the propriety of the arrangement. Among the points made in public

0920 "393" 40 02

commentary were:

- McAuliffe was facing questioning in an upcoming criminal trial of former Teamster political director William Hamilton with the charges being brought by the U.S. Attorney's office in New York. Bill Clinton could "make it tough for the U.S. Attorney's office to get to the bottom of McAuliffe's oft-denied role in the sleazy 1996 "contributions swap" between the Democratic National Committee and the Teamsters union..."
"House Gift," *Wall Street Journal*, Sept. 10, 1999, editorial
- "Nonetheless, the appearances of this transaction are distinctly - to use a word rendered quaint by the Clinton era - unseemly."
"Mrs. Clinton builds her dream house," *Washington Times*, September 10, 1999, editorial
- "The appearance problem is augmented when the magnitude of the favor is so large and the circumstance so personal."
"Clinton's New House," *Washington Post*, September 9, 1999, editorial

Apparent Violations

The gravamen of this complaint is quite simple: a major fund raiser for a candidate for U.S. Senate has provided that candidate a \$1,350,000 cash benefit in the form of a pledge of collateral for a mortgage for the candidate's home and that cash benefit constituted a contribution in excess of the amount allowed by law.

First, for purposes of the Federal Election Campaign Act, Clinton is clearly a candidate for federal office. The legal definition of candidate is set forth in 11 CFR §100.3:

§100.3 Candidate (2 U.S.C. 431(2))

- (a) **Definition. Candidate** means an individual who seeks nomination for election, or election, to federal office. A person becomes a candidate for Federal office whenever any of the following events occur:

- (1) **The individual has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000.**

Given the \$150,000 fundraising event in McAuliffe's home town alone, Clinton is clearly a candidate in the eyes of the law.

Second, under the Federal Election Campaign Act, as well as the FEC regulations, gifts, loans, endorsements of bank loans and guarantees of bank loans to a candidate all are subject to the contribution limits imposed for contributions to the campaign itself. Indeed, the definition of contribution is so broad as to include "anything of value." See: 11 CFR §100.7(a)(1).

Moreover, the Federal Election Commission's own guide for candidates, Federal Election Commission Campaign Guide, takes care to instruct candidates that loan guarantees and endorsements are also subject to the contribution limits:

Guarantees or Endorsements. An endorsement or guarantee of

a bank loan is considered a contribution by the endorser or guarantor and thus is subject to the law's prohibitions and limitations on contributions. 11 CFR §100.7(b)(11)(i)(A)(2).
FEC Campaign Guide, Chapter 5: Other Reportable Receipts

Federal election law limits contributions to a candidate for federal office to a maximum of \$1,000 per election. See: 11 CFR §110.1(a)

As such, McAuliffe's \$1,350,000 cash deposit constitutes a contribution which is \$1,349,000 over the legal limit.

The fact that the cash deposit in this case is going to benefit Clinton as distinguished from the Committee is a distinction without a difference when it come to federal election law. The limits on contributions apply to both the candidate's committee as well as the candidate. As the Federal Election Campaign Guide points out, citing the Federal Election Campaign Act:

The candidate and his or her committees share the same limit.
2 U.S.C. §441a(a)(7).

Finally, there can be no question as to the purpose of the cash deposit. From all accounts, the purpose was to facilitate the purchase of a New York home for Clinton to establish residence in order to run for the U.S. Senate. The fact that the cash deposit was made by an individual who has already raised at least \$150,000 for Clinton's campaign, is credited with being her chief fund raiser, and who is assisting her in planning to raise \$25 million for the campaign removes all doubt as to the motivation of McAuliffe.

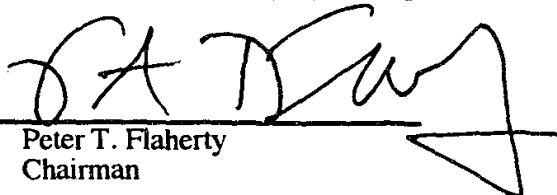
Conclusion

None of the essential facts supporting this complaint are in dispute. Indeed, virtually all of the information on which this complaint is from the public record and has not been challenged factually.

Put simply: is a \$1,350,000 cash deposit "anything of value" given "for the purpose of influencing any election for Federal office"? Of course it is. To say that a rich fund raiser for a federal candidate can provide more than a million dollars in cash for the personal use of a candidate and not be in violation of the contribution limits is to say that there are no contribution limits.

Given the compelling pattern of facts present in this case, the public is entitled to a full and prompt investigation. Anything less would be a mockery of federal election law.

CONSERVATIVE CAMPAIGN FUND

By: 
Peter T. Flaherty
Chairman

Subscribed and sworn before me this 10th day of September 1999.

State of Virginia
County of Fairfax


Notary Public

My commission expires:

March 31, 2002